

MASS J3-2:P94

GEORGE E. DEWEY, Justice
ROBERT A. BELMONTE, Special Justice
JOHN F. GABRIEL, Clerk
Telephone
485-3700, 3702 & 3706

UMASS/AMHERST
312066 0282 4349 1
Commonwealth of Massachusetts
District Court of Marlborough
Williams Street
Marlboro, Mass. 01752

MICHAEL A. WALSH, Chief Probation Officer
Probation Officers
JOHN F. MCSWEENEY
VINCENT M. AMOROSO
Telephone
485-1356

OF MASS/AMHERST LIBRARY

District Courts.
A proposal for the
administrative reorganization
of the District Courts.

July 8, 1976

Professor Archibald Cox, Chairman
The Governor's Select Committee on
Judicial Needs
Room 74A
State House
Boston, Massachusetts 02133

Dear Professor Cox:

The Acting Chief Justice and the members of the Administrative Committee of the District Courts are submitting herewith, for the consideration of your committee, certain recommendations for the administrative reorganization of the district court system.

We recommend that the district courts be integrated into a unified, state-funded District Court of Massachusetts. We believe that the approach we outline preserves the benefits inherent in our community court system, while reducing administrative fragmentation and increasing accountability.

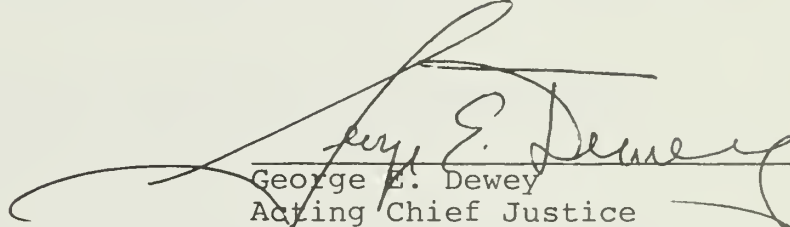
We are aware of the complicated nature of judicial reform, and that ours represents only one possible approach. We are pleased to know of the many responses to your questionnaire which you have received from district court judges and other personnel, and we urge you to consider them carefully. In our recommendations we have concentrated on those basic structural changes which we believe might be reasonably achievable in the present climate of reform but which could bring about meaningful improvement in the district court system. We believe strongly that only through the substantial strengthening and upgrading of the district court system, to the end that the district courts are able to assume greater responsibility for the judicial business of the Commonwealth, will it ever be possible to end backlog and delay in the courts of Massachusetts.

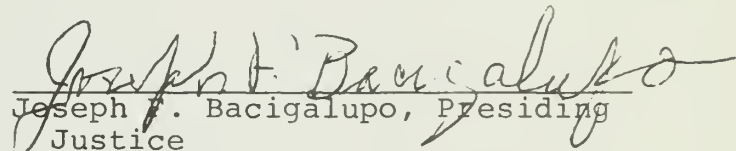
Of course, we would be pleased to meet with you and discuss these recommendations further if you so desire.

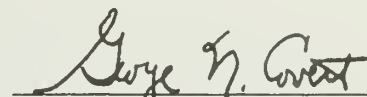
Professor Archibald Cox, Chairman
July 8, 1976
Page 2


Very truly yours,

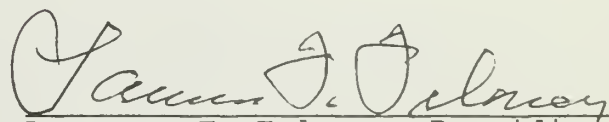
THE ADMINISTRATIVE COMMITTEE OF THE DISTRICT COURTS


George E. Dewey
Acting Chief Justice
District Courts of Massachusetts


Joseph P. Bacigalupo, Presiding
Justice
District Court of Lawrence


George N. Covett, Presiding
Justice
District Court of Brockton


Morris N. Gould, Justice
Central District Court of Worcester


Lawrence F. Feloney, Presiding
Justice
Third District Court of Eastern
Middlesex, Cambridge



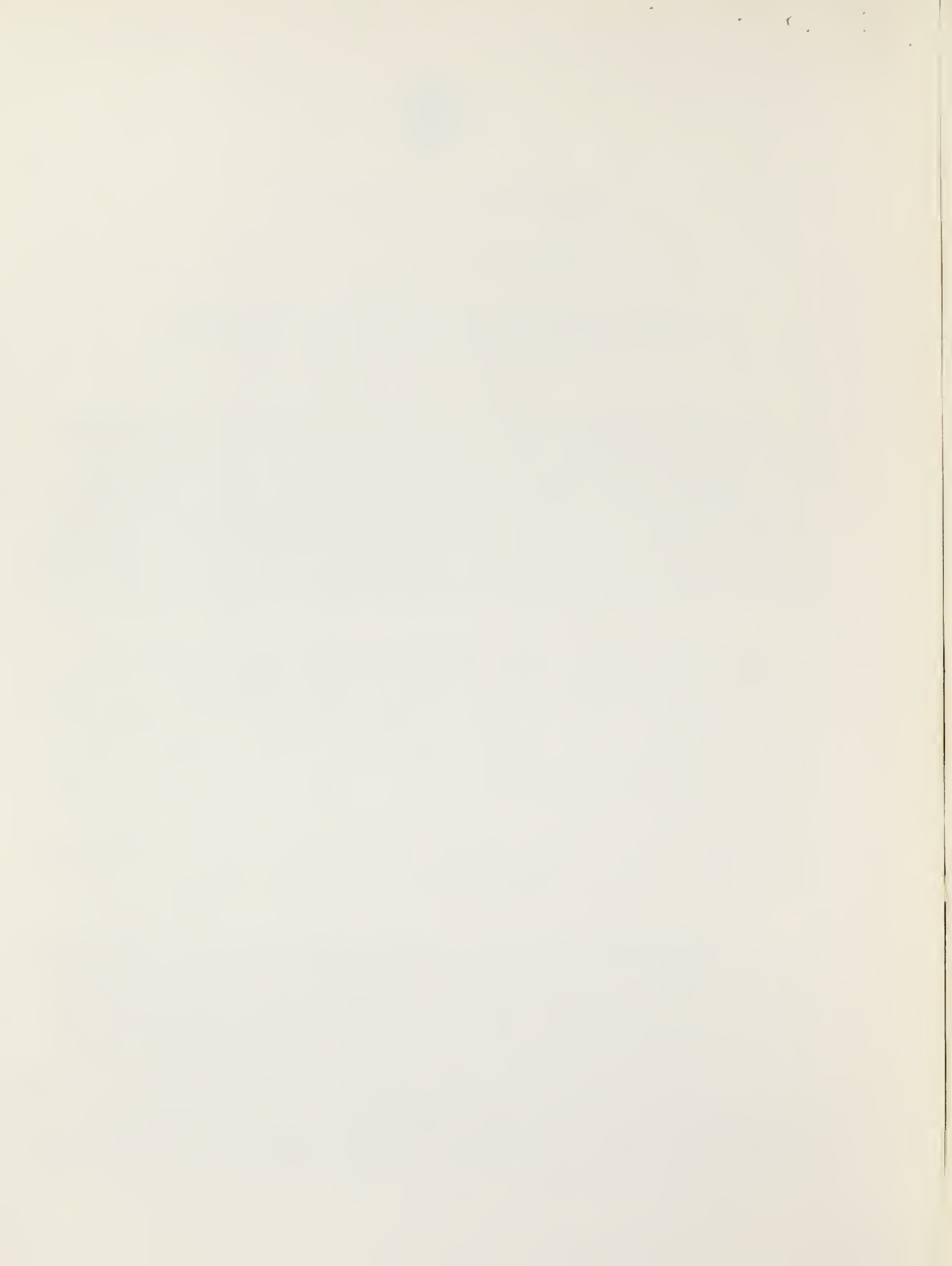
District Courts of Massachusetts

A PROPOSAL FOR THE ADMINISTRATIVE REORGANIZATION OF THE DISTRICT COURTS

The Acting Chief Justice and the members of the Administrative Committee of the District Courts submit the following recommendations for the administrative improvement of the district court system. The Committee believes that the administration of the district courts could be substantially improved if responsibility, authority and accountability were strengthened and better defined than at present. The Committee further believes that that goal should be accomplished by preserving the basically horizontal nature of our court system, but strengthening the vertical accountability of the several trial courts to the Supreme Judicial Court.

The Committee is of the opinion that the separate identity of the district court system should be preserved at this time. The basically non-unified character of each component of the court system--district court, Superior Court, probate court, etc.--and the relatively low level of administrative integration within each component suggest that complete unification of the several trial courts into a single court is, as a practical matter, too large and complicated an administrative undertaking at the present time. Further strengthening of the several levels of the court system should take place before the integration of all courts into a single level trial court is considered. Otherwise a unified trial court will be only a conglomeration of several administratively disjointed systems, no stronger than its component parts.

The Committee also feels that there must be a heightened level of accountability at all levels of the court system, including the relationship between the trial court chief justices and the Chief Justice of the Supreme Judicial Court, and proposes in Parts III, IV, V and VI measures to increase that accountability. However, the Committee also believes that the responsibility for the operation of the district courts should be principally with the chief justice thereof. The continuous and undivided attention and initiative of a high ranking judicial officer--the Chief Justice of the District Courts--is indispensable to the administrative strengthening of the district court system and the development of the district courts into a resource that can assume greater responsibilities in the judicial branch. Recent experience amply demon-



strates that the upgrading of the district courts is susceptible of accomplishment by judicial leadership within the district courts, particularly when that leadership can involve the judges and other court personnel in participating in the examination and resolution of systemic problems. The following is a partial list of examples of recent strides made possible by this combination of strong leadership and individual participation from within the district courts:

- a comprehensive, ongoing educational program for judicial and non-judicial personnel;
- rules of criminal procedure;
- modern rules of civil procedure, modeled on the Massachusetts Rules of Civil Procedure;
- the installation of courtroom recorders in half the district courts;
- Standards of Judicial Practice for complaint hearings, bail, arraignment, small claims and mental health commitments;
- uniform forms;
- administrative regulations;
- publication of Appellate Division opinions;
- promulgation of model jury instructions;
- development of a legislative program;
- creation of a system of working committees in the areas of alcoholism, civil procedure, criminal procedure, drugs, education, forms, grievances, juries, juvenile procedure, mental health, non-support, preservation of testimony, small claims, standards and trial de novo;
- analysis of the effects of the trial de novo system.

Many additional projects are now in progress. It can be fairly said that these improvements would not have occurred but for the presence of strong leadership and the participation of many judges, clerks and other personnel within the district court system.

The Committee feels that these recommendations will greatly strengthen the administration of the courts, without sacrificing the benefits which flow from initiative and action on the part of the local court unit. It will preserve the community court concept while improving system-wide flexibility and integrating the district courts into a more unified, administratively stronger system.

I. Certain district courts should be consolidated.

A. The following courts should be consolidated:

1. Adams, North Adams and Williamstown
2. Lee and Great Barrington
3. Winchendon and Gardner
4. Fitchburg and Leominster
5. Amesbury, Newburyport and Ipswich

B. The judicial positions in these courts should not be eliminated, nor should legislation provide that vacancies not be filled. The Committee believes that the likely increases in district court civil and criminal jurisdiction, the worsening backlog in the Superior Court, the possibility of eliminating or modifying trial de novo and the ultimate elimination of all Special Justice positions pursuant to St. 1975, c. 862, s. 11 dictate against the further elimination of judicial positions in the Commonwealth, provided that the present or future occupants of these positions be assignable to places where their services are needed, as is now the case.

C. The non-judicial employees of a court which is consolidated into another court should be temporarily transferred to the latter court, and said employees should suffer no loss in pay. However, as their positions become vacant the necessity for the continued existence of the positions should be evaluated and they should be eliminated if they are not necessary.

II. The district courts should be unified into a single District Court of Massachusetts so as to increase uniformity and administrative flexibility.

A. The elimination of the present statutory separateness of each court would be a major step toward uniformity of practice and procedure. All forms should bear the seal of the District Court of Massachusetts and the signature of the Chief Justice of the District Court. This approach of unifying the trial court of limited jurisdiction has been followed in a number of states, such as Maine, Maryland and Michigan, as the first step toward overall court unification.

B. The single District Court should be divided into judicial districts approximating those of the present in size and number. Each district should be served by a single courthouse. The present statutory requirement that certain courts sit in more than one place in the judicial district (the Gardner court, in Athol; the Wareham court, in Middleboro; etc.) should be eliminated.

C. There should be three judicial positions in the District Court: Presiding Justice, Justice and Chief Justice. Each judicial



Digitized by the Internet Archive
in 2014

<https://archive.org/details/aproposalforadmi00mass>

district should have one Presiding Justice--appointed to "the District Court of Massachusetts, sitting in East Cambridge," "the District Court of Massachusetts, sitting in Brockton," etc.--who would sit in that district and in such other districts as the Chief Justice might assign. The present positions of non-presiding Justice and Special Justice would be replaced by the position of Justice. Unlike Presiding Justices, Justices would be appointed to the District Court at large and would sit where needed by assignment of the Chief Justice of the District Court, paralleling the system now in effect in the Superior Court. The Chief Justice would be appointed by the Governor from among all of the Presiding Justices and Justices. All judges would serve full-time.

D. The Chief Justice of the District Court should be authorized to move a town from one judicial district to another when the public convenience so requires, subject to the approval of the Chief Justice of the Supreme Judicial Court, so that population shifts and increases or decreases in judicial business in different judicial districts can be accommodated administratively.

E. The Chief Justice of the District Court should likewise be empowered to order cases pending in one judicial district to be transferred to and heard in another judicial district when the public convenience so requires.

F. All non-judicial personnel should be subject to temporary assignment by the Chief Justice of the District Court outside their normal duty locations so as to increase flexibility in the use of non-judicial personnel.

III. A court system-wide personnel system should be established.

A. The judicial branch should have a personnel system. Position descriptions, position qualifications, recruitment procedures and salary schedules should be established by the Chief Justice of the Supreme Judicial Court, and be applicable to all the courts. Each component of the judicial branch--the District Court, the Superior Court, etc.--should administer the system within its own jurisdiction.

B. The personnel system should emphasize merit advancement and career opportunities, and employees should be permitted and encouraged to advance from a position in one judicial district to a position of increased responsibility in another judicial district or in another court.

IV. The cost of operating the District Court should be assumed by the state.

A. The present system of funding the district courts through the counties fosters unevenness in district court budgets and in other aspects of court operations. The Committee favors removing the District Court from the county system and having the cost of its operation assumed by the state. This was the recommendation of The American Judicature Society in its 1974 report, "Financing Massachusetts Courts." The counties should continue to have responsibility for court facilities, however.

B. Each judicial district should have a single budget encompassing the several departments of the court. These budgets should then be reviewed by the Chief Justice of the District Court, who could increase or decrease the budget request of each judicial district before consolidating all of the district budgets into a single budget for the District Court. This budget would then be submitted to the Chief Justice of the Supreme Judicial Court, along with the budgets of the other components of the court system. The Chief Justice would make such changes to each budget as he deemed appropriate, and submit it to the legislature.

C. The administration of the budget, once finalized, should be centered in the judicial branch and should be governed by rules and regulations promulgated by the Chief Justice of the Supreme Judicial Court. Each of the several components of the judicial branch should administer the budget within its own jurisdiction, subject to those rules and regulations.

V. Steps should be taken to increase administrative accountability at all levels of the court system.

A. The Committee feels strongly that placing specific responsibility for administrative duties with specific persons, providing them with sufficient authority to carry out those duties and making them accountable to another for the proper performance of their duties is the key to sound administration in the courts.

B. The Presiding Justice of the judicial district should be responsible for the proper administration of court operations in that district. His administrative role should be clarified and defined.

C. The Presiding Justices should be subject to the supervision and direction of the Chief Justice of the District Court who, as the chief judicial officer in the district court system, should be empowered to resolve with authority and finality any local problems and direct that administrative shortcomings be remedied.

D. Similarly, the Chief Justice of the District Court should be subject to the supervision and direction of the Chief Justice of the Supreme Judicial Court, and should be responsible to him for the proper functioning of the District Court as a whole.

E. The Administrative Committee of the District Courts should continue as an advisory body. The Committee also feels it important that the Chief Justice have his own staff capability in the form of the Administrative Office of the District Court, appointed by and responsible to him.

VI. The administrative authority of the Chief Justice of the Supreme Judicial Court should be strengthened.

A. The experience of the district courts suggests that placing substantial administrative authority and responsibility in a single judicial officer instead of a collegial body is to be preferred. For that reason the Committee feels that the ultimate administrative authority and responsibility for all aspects of the administration of the court system should be lodged in the Chief Justice of the Supreme Judicial Court.

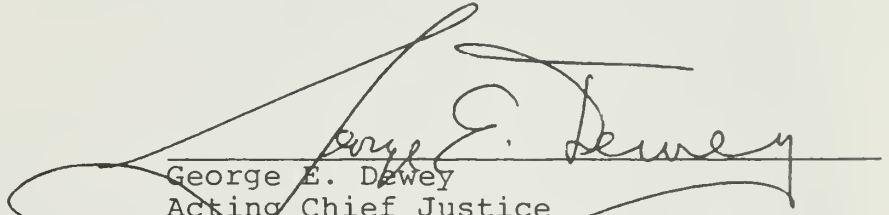
B. In addition to the personnel and budget authority and the authority of supervision and direction suggested in III(A), IV and V(D) above, changes in the general civil and criminal rules in use in the District Court should be subject to the approval of the Chief Justice of the Supreme Judicial Court. In the case of such matters as special District Court rules and administrative regulations bearing on problems exclusive to the District Court, the Committee feels that the Chief Justice of the District Court should be able to act without prior approval. The Committee is of the view that an approval mechanism in such cases would contribute to delay in the implementation of needed procedural and administrative changes.

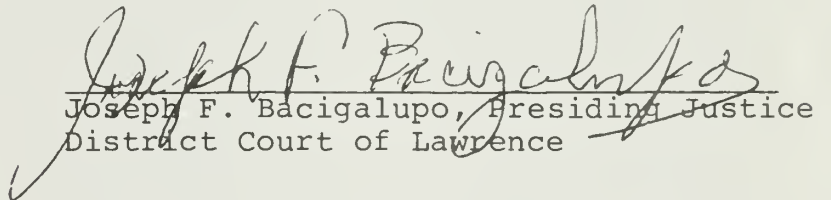
C. The Administrative Committee supports the activities of the Executive Secretary of the Supreme Judicial Court on behalf of the Justices of the Court in such areas as budgeting, education, data processing, system-wide planning, legislation and other areas, and feels that these activities should be continued. Even absent total unification of the court system, the existence of a central administrative office of the courts is a necessary element in the improved administration of the court system as a whole.


- - - - -


The Committee has outlined those basic structural changes which it believes might be reasonably achievable in the present climate of reform and capable of bringing about meaningful improvement in the district court system. The Committee feels strongly that only through the substantial strengthening and upgrading of the district court system will it ever be possible to end backlog and delay in the courts of the Commonwealth and achieve the goal of prompt service to the public through better administration.

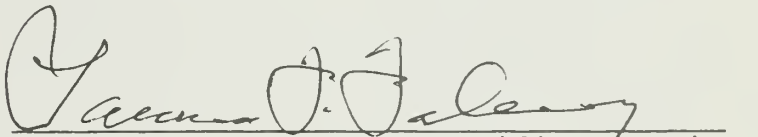
THE ADMINISTRATIVE COMMITTEE OF THE DISTRICT COURTS


George E. Dewey
Acting Chief Justice
District Courts of Massachusetts


Joseph F. Bacigalupo, Presiding Justice
District Court of Lawrence


George N. Covett, Presiding Justice
District Court of Brockton


Morris N. Gould, Justice
Central District Court of Worcester


Lawrence F. Feloney, Presiding Justice
Third District Court of Eastern
Middlesex, Cambridge

July 8, 1976

